

REMARKS

Applicants respectfully request reconsideration of this application as amended.

Claims 1-3, 5, 7, 11-15, 35-37, 39, 44-46 and 54-55 have been amended. Claims 4, 6, 8-10, 16-34, 38, 40-43, 47-53 and 56-66 have been cancelled without prejudice. No new claims have been added. Therefore, claims 1-3, 5, 7, 11-15, 35-37, 39, 44-46 and 54-55 are presented for examination. The following remarks are in response to the final Office Action, mailed August 31, 2008, and the Advisory Action mailed, October 10, 2008.

35 U.S.C. § 103 Rejection

Claims 1-15 and 35-58 stand rejected under 35 U.S.C. §103(a), as being unpatentable over Kundu, U.S. Patent Publication No. 2005/0132041 (“Kundu”) in view of Evoy, et al., U.S. Patent No. 7,203, 868 (“Evoy”) and further in view of Chang, et al., U.S. Patent No. 6,950,874 (“Chang”).

Claim 1, as amended, recites:

A method, comprising:

arranging monitor managed beans in a hierarchical tree structure, wherein each of the monitor managed beans to seek monitoring of one or more corresponding resources of a plurality of resources associated with one or more nodes of a plurality of nodes of the hierarchical tree structure, wherein the monitor managed beans are associated with runtime managed beans responsible for monitoring the plurality of resources;
monitoring the plurality of resources via the runtime managed beans, wherein each of the runtime managed beans to collect monitoring information for its assigned resource of the plurality of resources;
and
receiving the monitoring information from the runtime managed beans, wherein the monitoring information is received by the monitor managed beans at the plurality of nodes.
(emphasis added)

Kundu discloses “[me]thods, apparatus and computer programs for monitoring resources within a data processing network. Monitoring entities can be selected, and a set

of active monitoring functions can be modified, based on the requirements of consumers of monitored data. A first method involves monitoring resources on behalf of consumer entities within the network. A description of the consumer entity's monitoring requirements are published by the consumer entity and stored in a repository. The monitoring requirements of the consumer entity are compared with the monitoring capabilities of a plurality of monitoring entities, to identify a monitoring entity capable of satisfying the monitoring requirements of the consumer entity. An identified monitoring entity is selected, and a connection is established between the selected monitoring entity and the consumer entity. A second method involves modifying an active set of monitoring functions in response to changes to monitoring requirements of a currently active set of consumer entities.” (Abstract; emphasis added).

Referring now to parts of the section relied by the Examiner, Kundu discloses “[a]spects of the present invention provide methods, apparatus and computer programs for monitoring resources within a data processing network. *Monitoring entities can be selected, and a set of active monitoring functions can be modified, based on the requirements of consumers of monitored data.*” (paragraph 0011; emphasis added).

Kundu further discloses “[e]ach component in the monitoring framework has a description of its monitoring metrics and other details associated with producing and/or consuming a metric (such as the output format or required input format, methods by which the data can be collected, methods by which the data is reported, etc). A component that is both a producer and consumer possesses separable descriptions relating to its production and consumption of data.” (paragraph 0059).

The Examiner further refers to paragraphs 0067 and 0072, but neither these paragraph nor the ones cited above nor elsewhere in Kundu any of the features of claim 1

are disclosed. For example, Kundu relates to “systems, methods, and computer programs for monitoring distributed resources in a data processing environment” but does not teach or reasonably suggest a “hierarchical tree structure” for arranging monitor managed beans wherein “each of the monitor managed beans to seek monitoring of one or more corresponding resources of a plurality of resources associated with one or more nodes of a plurality of nodes of the hierarchical tree structure” as recited by claim 1 (emphasis added).

Kundu also does not teach or reasonably suggest the use of both “monitor managed beans” and “runtime managed beans” such as “monitor managed beans are associated with runtime managed beans responsible for monitoring the plurality of resources” recited by claim 1 (emphasis added). Further yet, Kundu does not teach or reasonably suggest “monitoring the plurality of resources via the runtime managed beans, wherein each of the runtime managed beans to collect monitoring information for its assigned resource of the plurality of resources . . . the monitoring information is received by the monitor managed beans at the plurality of nodes” as recited by claim 1. Kundu’s selection of an identified monitoring entity, and establishing a connection between the selected monitoring entity and the consumer entity is not the same as monitor managed beans are associated with runtime managed beans responsible for monitoring the plurality of resources as recited by claim 1.

The Examiner relies on Envoy and Chang to make up for the deficiencies of Kundu; however, Envoy and Chang do not make up for any of the deficiencies of Kundu. Furthermore, according to MPEP §2143, “[T]he Supreme Court in *KSR International Co. v. Teleflex, Inc.* 550 U.S. ___, ___, 82 USPQ2d 1395-1397 (2007) identified a number of rationales to support a conclusion of obviousness which are consistent with the proper

“functional approach” to the determination of obviousness as laid down in *Graham*.¹⁶ And, according to MPEP §2143.01, [o]bviousness can be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so. *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1335 (Fed. Cir. 2006). Further, “[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art.” *KSR International Co. v. Teleflex, Inc.* 550 U.S. ___, ___, 82 USPQ2d 1385, 1396 (2007).

Kundu, Evoy and Chang, neither individually nor when combine in any combination, teach or reasonably suggest all the features of claim 1 and a *prima facie* case of obviousness has not been met under MPEP §2142. Accordingly, Applicant respectfully requests the withdrawal of the rejection of claim 1 and its dependent claims.

Claims 35 and 44 contain limitations similar to those of claim 1. Accordingly, Applicants respectfully request the withdrawal of the rejection of claims 35 and 44 and their dependent claims.

Conclusion

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

Invitation for a Telephone Interview

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

Request for an Extension of Time

Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

Charge our Deposit Account

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

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